

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
TRENTON DIVISION**

IN RE:

Violet Miller

CASE NO. 13-37661

DEBTOR

CHAPTER 13

Discover Bank

Plaintiff,

Adv. Proc. No.:

v

Violet Miller

Defendant

COMPLAINT TO DETERMINE DISCHARGEABILITY OF A DEBT

NOW COMES Discover Bank, by and through its attorney, and states as follows:

Jurisdiction and Venue

1. Defendant, Violet E. Miller, is a debtor in the voluntary Chapter 13 bankruptcy petition filed in this Court on December 23, 2013.
2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334, 151, and 157.
3. Venue in this Court is proper pursuant to 28 U.S.C. § 1408.
4. This matter is a Core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I).

Facts Common to all Counts

5. Plaintiff, Discover Bank, issuer of the Discover credit card, offers revolving credit card accounts to individuals.
6. Defendant is an individual consumer and the holder of a credit card account with Plaintiff, account number ending in 0061.
7. Consumer customers agree to make monthly installment payments for purchases and cash advances plus pay applicable interest and fees under the credit card accounts.
8. The Defendant incurred the following charges and Plaintiff financed said charges through the above-mentioned revolving credit card account within the months of October through December 2013 before filing the bankruptcy petition. A copy of the account statement is attached hereto and incorporated herein as Exhibit "A." The charges total \$2,429.71.

Count I, Presumption of Nondischargeability;
11 U.S.C. § 523(a)(2)(C)(i)(I)

9. Plaintiff adopts and incorporates by reference all the allegations contained in paragraphs 1-8.
10. Pursuant to 11 U.S.C. § 523 (a)(2)(C)(i)(I), consumer debts owed to a single creditor and aggregating more than \$650.00 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable.
11. The above-mentioned charges, totaling \$2,429.71, incurred by the Defendant and financed by the Plaintiff through its open-ended credit plan, were incurred within 90 days prior to the filing of the Defendant's bankruptcy petition.

12. Defendant's purchases are luxury in nature and are not necessary for the support or maintenance of Defendant or a dependent.
13. Said purchases made within 90 days prior to the filing of this case create a presumption that such debt was incurred fraudulently and is nondischargeable.
14. Accordingly, the debt is non-dischargeable pursuant to 11 U.S.C. § 523(a)(2)(C)(i)(I).

Count II, Money Judgment

15. Plaintiff adopts and incorporates by reference all the allegations contained in paragraphs 1-14.
16. The total presumed to be nondischargeable is \$2,429.71.
17. Upon a finding that the debt is nondischargeable, Plaintiff is entitled to a money judgment.

WHEREFORE, Discover Bank prays for the entry of an order as follows:

- A. For an order declaring that the debt owed to Plaintiff by Defendant as set forth in the Complaint is non-dischargeable pursuant to 11 U.S.C. § 523(a)(2)(C)(i)(I); and
- B. For a judgment in favor of Plaintiff and against Defendant in the principal amount of \$2,429.71 plus reasonable attorneys fees associated with the prosecution of this matter, and costs; and
- C. For such other and further relief as this Court deems just.

Respectfully Submitted:

By: /s/Karina Velter
Karina Velter, Esq.
WELTMAN, WEINBERG & REIS CO., LPA
325 Chestnut Street, Suite 501
Philadelphia, PA, 19106
Telephone: 267-940-1671
Facsimile: 215-599-1505
ATTORNEYS FOR CREDITOR
WWR# 30271114

Account_Number_1	Stmtnt_Close	TX_Date	TX_Description	TX_Amount	create_date
XXXXXXXXXXXX0061	10/24/2013	10/12/2013	PAYMENT - THANK YOU	-71	12/31/2013
XXXXXXXXXXXX0061	11/24/2013	11/16/2013	PAYMENT - THANK YOU	-70	12/31/2013
XXXXXXXXXXXX0061	12/24/2013	12/15/2013	PAYMENT - THANK YOU	-110	12/31/2013
XXXXXXXXXXXX0061	11/24/2013	11/21/2013	BALANCE TRANSFER CHECK 0463 USA	362.8	12/31/2013
XXXXXXXXXXXX0061	11/24/2013	11/21/2013	BAL TRANS FEE	10.88	12/31/2013
				372.68	
XXXXXXXXXXXX0061	10/24/2013	10/13/2013	THE CLINTON HOUSE CLINTON NJ	70.75	12/31/2013
XXXXXXXXXXXX0061	10/24/2013	10/20/2013	THE CLINTON HOUSE CLINTON NJ	61.45	12/31/2013
XXXXXXXXXXXX0061	11/24/2013	10/23/2013	MOUNTAIN VIEW CHALET ASBURY NJ	72.65	12/31/2013
XXXXXXXXXXXX0061	11/24/2013	11/13/2013	MOUNTAIN VIEW CHALET ASBURY NJ	51.68	12/31/2013
XXXXXXXXXXXX0061	11/24/2013	11/15/2013	MOUNTAIN VIEW CHALET ASBURY NJ	65.23	12/31/2013
XXXXXXXXXXXX0061	11/24/2013	11/17/2013	THE CLINTON HOUSE CLINTON NJ	70.01	12/31/2013
XXXXXXXXXXXX0061	11/24/2013	11/21/2013	BEST BUY PHILLIPSBURG NJ	1252.88	12/31/2013
XXXXXXXXXXXX0061	11/24/2013	11/22/2013	THE SPAIN INN II ASBURY NJ	84.42	12/31/2013
XXXXXXXXXXXX0061	12/24/2013	11/27/2013	DRI*TREND MICRO ORDERFIND.COMMN	38.42	12/31/2013
XXXXXXXXXXXX0061	12/24/2013	12/6/2013	MOUNTAIN VIEW CHALET ASBURY NJ	38.51	12/31/2013
XXXXXXXXXXXX0061	12/24/2013	12/11/2013	MOUNTAIN VIEW CHALET ASBURY NJ	75.02	12/31/2013
XXXXXXXXXXXX0061	12/24/2013	12/14/2013	WALMART.COM 8009666546 BENTONVILLE AR	44.18	12/31/2013
XXXXXXXXXXXX0061	12/24/2013	12/14/2013	BEST BUY PHILLIPSBURG NJ	130.83	12/31/2013
				2056.03	